

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 44527
LONE STAR DISTRIBUTORS, INC. d/b/a Hectors Drive In
RN102042447
Docket No. 2012-1386-PST-E

Page 1 of 2

Order Type:

Default Order

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

131 North Avenue, Donna, Hidalgo County

Type of Operation:

convenience store with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: February 15, 2013

Comments Received: None

Penalty Information

Total Penalty Assessed: \$12,781

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$12,781

Compliance History Classifications:

Person/CN – Average
Site/RN – Average by Default

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2011

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 44527
LONE STAR DISTRIBUTORS, INC. d/b/a Hectors Drive In
RN102042447
Docket No. 2012-1386-PST-E

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Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: September 27, 2011; June 13, 2012
Date(s) of NOV(s): N/A
Date(s) of NOE(s): June 13, 2012

Violation Information

1. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].
2. Failed to provide proper corrosion protection for the UST system [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(a)(1)].
3. Failed to monitor for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), and failed to provide release detection for the piping associated with the USTs [TEX. WATER CODE § 26.3475(b) and (c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and (b)(2)].
4. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent no longer operates the Facility as of July 26, 2012.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: December 12, 2012
Date Green Card(s) Signed: December 14, 2012
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Rebecca M. Combs, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Eli Martinez, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Clinton Sims, Enforcement Division, (512) 239- 6933

TCEQ Regional Contact: Franciso Chavero, Harlingen Regional Office, 956-425-6010

Respondent: Zameer Fazal, President, LONE STAR DISTRIBUTORS, INC., 3660 Westchase, Houston, Texas 77042

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	18-Jun-2012	Screening	10-Jul-2012	EPA Due	
	PCW	2-Nov-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	LONE STAR DISTRIBUTORS, INC. dba Hectors Drive In		
Reg. Ent. Ref. No.	RN102042447		
Facility/Site Region	15-Harlingen	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	44527	No. of Violations	4
Docket No.	2012-1386-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Clinton Sims
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$11,250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	0.0%	Enhancement	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment for compliance history.
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$2,282
Approx. Cost of Compliance	\$9,438

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,250
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OTHER FACTORS AS JUSTICE MAY REQUIRE	13.6%	Adjustment	\$1,531
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 1 and 3.
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Final Penalty Amount	\$12,781
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$12,781
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$12,781
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Screening Date 10-Jul-2012

Docket No. 2012-1386-PST-E

PCW

Respondent LONE STAR DISTRIBUTORS, INC. dba Hectors Dri

Policy Revision 3 (September 2011)

Case ID No. 44527

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102042447

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Clinton Sims

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date	10-Jul-2012	Docket No.	2012-1386-PST-E	PCW
Respondent	LONE STAR DISTRIBUTORS, INC. dba Hectors Drive In	<i>Policy Revision 3 (September 2011)</i>		
Case ID No.	44527	<i>PCW Revision August 3, 2011</i>		
Reg. Ent. Reference No.	RN102042447			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Clinton Sims			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 37.815(a) and (b)			
Violation Description	Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum underground storage tanks ("USTs").			
Base Penalty				\$25,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual				Percent 0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification				
	Major	Moderate	Minor		
	x			Percent 5.0%	
100% of the rule requirement was not met.					
Adjustment					\$23,750

\$1,250

Violation Events

Number of Violation Events	2	365	Number of violation days
<i>mark only one with an x</i>	daily		Violation Base Penalty
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	x	
Two single events (one event per UST) are recommended.			\$2,500

Good Faith Efforts to Comply

	0.0%	Reduction	\$0
		Before NOV	NOV to EDPRP/Settlement Offer
	Extraordinary		
	Ordinary		
	N/A	x	(mark with x)
Notes		The Respondent does not meet the good faith criteria for this violation.	
Violation Subtotal			\$2,500

Economic Benefit (EB) for this violation

Estimated EB Amount	\$1,386	Statutory Limit Test	
		Violation Final Penalty Total	\$2,840
This violation Final Assessed Penalty (adjusted for limits)			\$2,840

Economic Benefit Worksheet

Respondent LONE STAR DISTRIBUTORS, INC. dba Hectors Drive In
Case ID No. 44527
Reg. Ent. Reference No. RN102042447
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]	\$1,320	13-Jun-2011	13-Jun-2012	1.00	\$66	\$1,320	\$1,386
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to provide financial assurance for two USTs (\$660 per tank). The Date Required is one year prior to the record review date, and the Final Date is the record review date.

Approx. Cost of Compliance

\$1,320

TOTAL

\$1,386

Screening Date	10-Jul-2012	Docket No.	2012-1386-PST-E	PCW
Respondent	LONE STAR DISTRIBUTORS, INC. dba Hectors Drive In	Policy Revision 3 (September 2011)		
Case ID No.	44527	PCW Revision August 3, 2011		
Reg. Ent. Reference No.	RN102042447			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Clinton Sims			
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code § 334.49(a)(1) and Tex. Water Code § 26.3475(d)			
Violation Description	Failed to provide proper corrosion protection for the UST system.			
Base Penalty				\$25,000

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 15.0%
	Potential	x			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%

Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.
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Adjustment	\$21,250
	\$3,750

Violation Events

Number of Violation Events	1		27	Number of violation days
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mark only one with an x		daily		Violation Base Penalty \$3,750
		weekly		
		monthly	x	
		quarterly		
		semiannual		
		annual		
		single event		

One monthly event is recommended based on documentation of the violation during the June 13, 2012 record review date to the July 10, 2012 screening date.

Good Faith Efforts to Comply

	0.0%	Reduction		\$0
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary				
Ordinary				
N/A	x	(mark with x)		
Notes	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal				\$3,750

Economic Benefit (EB) for this violation

	Statutory Limit Test
Estimated EB Amount	\$608
	Violation Final Penalty Total \$4,260
This violation Final Assessed Penalty (adjusted for limits)	
	\$4,260

Economic Benefit Worksheet

Respondent LONE STAR DISTRIBUTORS, INC. dba Hectors Drive In
Case ID No. 44527
Reg. Ent. Reference No. RN102042447
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment	\$6,000	27-Sep-2011	8-Mar-2013	1.45	\$29	\$579	\$608
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install a corrosion protection system and test the system. The Date Required is the investigation date, and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$6,000

TOTAL

\$608

Screening Date	10-Jul-2012	Docket No.	2012-1386-PST-E	PCW
Respondent	LONE STAR DISTRIBUTORS, INC. dba Hectors Drive In	Policy Revision 3 (September 2011)		
Case ID No.	44527	PCW Revision August 3, 2011		
Reg. Ent. Reference No.	RN102042447			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Clinton Sims			
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code § 334.50(b)(1)(A) and (b)(2), and Tex. Water Code § 26.3475(b) and (c)(1)			
Violation Description	Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Also, failed to provide release detection for the piping associated with the USTs. Specifically, the Respondent did not conduct the triennial piping tightness test.			
Base Penalty				\$25,000

>> Environmental, Property and Human Health Matrix

OR		Harm				
	Release	Major	Moderate	Minor		
	Actual					
	Potential	x			Percent	15.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor		
					Percent	0.0%

Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.
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Adjustment	\$21,250
	\$3,750

Violation Events

Number of Violation Events	1	Number of violation days	27
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mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty	\$3,750
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One monthly event is recommended based on documentation of the violation during the June 13, 2012 record review date to the July 10, 2012 screening date.

Good Faith Efforts to Comply

	0.0%	Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary			
Ordinary			
N/A	x	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.		

Violation Subtotal	\$3,750
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Economic Benefit (EB) for this violation

Estimated EB Amount	\$254	Statutory Limit Test	
		Violation Final Penalty Total	\$4,260
This violation Final Assessed Penalty (adjusted for limits)			\$4,260

Economic Benefit Worksheet

Respondent LONE STAR DISTRIBUTORS, INC. dba Hectors Drive In
Case ID No. 44527
Reg. Ent. Reference No. RN102042447
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	27-Sep-2011	8-Mar-2013	1.45	\$108	n/a	\$108

Notes for DELAYED costs

Estimated cost to monitor the USTs for releases. The Date Required is the investigation date, and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$118	27-Sep-2008	13-Jun-2012	4.63	\$27	\$118	\$145
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost for conducting the triennial piping tightness test. The Date Required is three years prior to the investigation date, and the Final Date is the record review date.

Approx. Cost of Compliance

\$1,618

TOTAL

\$254

Screening Date	10-Jul-2012	Docket No.	2012-1386-PST-E	PCW
Respondent	LONE STAR DISTRIBUTORS, INC. dba Hectors Drive In	Policy Revision 3 (September 2011)		
Case ID No.	44527	PCW Revision August 3, 2011		
Reg. Ent. Reference No.	RN102042447			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Clinton Sims			
Violation Number	4			
Rule Cite(s)	30 Tex. Admin. Code § 334.10(b)			
Violation Description	Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel.			
Base Penalty				\$25,000

>> Environmental, Property and Human Health Matrix

OR	Harm					
		Major	Moderate	Minor		
	Actual					
	Potential					
					Percent	0.0%

>> Programmatic Matrix

OR	Falsification					
		Major	Moderate	Minor		
					Percent	5.0%

Matrix Notes	100% of the rule requirement was not met.
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Adjustment	\$23,750
	\$1,250

Violation Events

Number of Violation Events	1	Number of violation days	27
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mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty	\$1,250
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One single event is recommended.

Good Faith Efforts to Comply

	0.0%	Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary			
Ordinary			
N/A	x	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.		

Violation Subtotal	\$1,250
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Economic Benefit (EB) for this violation

Estimated EB Amount	\$34
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Statutory Limit Test

Violation Final Penalty Total	\$1,420
This violation Final Assessed Penalty (adjusted for limits)	
\$1,420	

Economic Benefit Worksheet

Respondent LONE STAR DISTRIBUTORS, INC. dba Hectors Drive In
Case ID No. 44527
Reg. Ent. Reference No. RN102042447
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	27-Sep-2011	8-Feb-2013	1.37	\$34	n/a	\$34
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain UST records. The Date Required is the investigation date, and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$34

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603073404	LONE STAR DISTRIBUTORS, INC.	Classification: AVERAGE	Rating: 2.55
Regulated Entity:	RN102042447	HECTORS DRIVE IN	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	11123	
	AIR NEW SOURCE PERMITS	REGISTRATION	54574	
Location:	131 NORTH AVE, DONNA, TX, 78537			
TCEQ Region:	REGION 15 - HARLINGEN			
Date Compliance History Prepared:	July 10, 2012			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	July 10, 2007 to July 10, 2012			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Clinton Sims Phone: (512) 239-6933

Site Compliance History Components

- Has the site been in existence and/or operation for the full five year compliance period? YES
- Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- If **YES**, who is the current owner/operator? N/A
- If **YES**, who was/were the prior owner(s)/operator(s)? N/A
- If **YES**, when did the change(s) in owner or operator occur? N/A
- Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site:

- Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- Any criminal convictions of the state of Texas and the federal government.
N/A
- Chronic excessive emissions events.
N/A
- The approval dates of investigations. (CCEDS Inv. Track. No.)
1 06/13/2012 (975611)
- Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- Environmental audits.
N/A
- Type of environmental management systems (EMSs).
N/A
- Voluntary on-site compliance assessment dates.
N/A
- Participation in a voluntary pollution reduction program.
N/A
- Early compliance.
N/A

Sites Outside of Texas

N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
LONE STAR DISTRIBUTORS, INC.
D/B/A HECTORS DRIVE IN;
RN102042447**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2012-1386-PST-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The respondent made the subject of this Order is LONE STAR DISTRIBUTORS, INC. d/b/a Hectors Drive In ("Respondent").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent operated, as defined in 30 TEX. ADMIN. CODE § 334.2(70), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 131 North Avenue in Donna, Hidalgo County, Texas (Facility ID No. 54574) (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain a regulated petroleum substance as defined in the rules of the TCEQ.
2. During an investigation conducted on September 27, 2011, and a record review conducted on June 13, 2012, a University of Texas-Arlington Petroleum Storage Tank Program investigator documented that Respondent:
 - a. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs;
 - b. Failed to provide proper corrosion protection for the UST system;
 - c. Failed to monitor for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), and failed to provide release detection for the piping associated with the USTs by failing to conduct the triennial piping tightness test; and
 - d. Failed to maintain records and make them immediately available for inspection upon request by agency personnel.
3. Respondent received notice of the violations on or about June 18, 2012.

4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against LONE STAR DISTRIBUTORS, INC. d/b/a Hectors Drive In" (the "EDPRP") in the TCEQ Chief Clerk's office on December 12, 2012.
5. By letter dated December 12, 2012, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on December 14, 2012, as evidenced by the signature on the card.
6. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.
7. The Executive Director recognizes that Respondent no longer operates the Facility as of July 26, 2012.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to provide proper corrosion protection for the UST system, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(a)(1).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to monitor for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), and failed to provide release detection for the piping associated with the USTs, in violation of TEX. WATER CODE § 26.3475(b) and (c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and (b)(2).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to maintain UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b).
6. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
7. As evidenced by Finding of Fact No. 6, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.

8. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
9. An administrative penalty in the amount of twelve thousand seven hundred eighty-one dollars (\$12,781.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
10. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty in the amount of twelve thousand seven hundred eighty-one dollars (\$12,781.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: LONE STAR DISTRIBUTORS, INC. d/b/a Hectors Drive In; Docket No. 2012-1386-PST-E" to:

Financial Administration Division, Revenues Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088
3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondent.
5. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until

Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF REBECCA M. COMBS

STATE OF TEXAS

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COUNTY OF TRAVIS

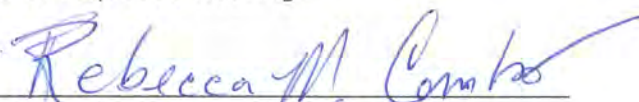
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"My name is Rebecca M. Combs. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against LONE STAR DISTRIBUTORS, INC. d/b/a Hectors Drive In" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on December 12, 2012.

The EDPRP was mailed to Respondent's last known address on December 12, 2012, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on December 14, 2012, as evidenced by the signature on the card.

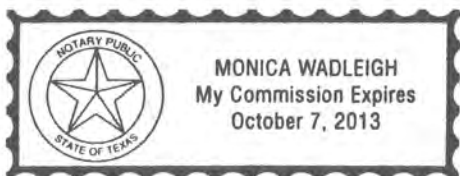
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."



Rebecca M. Combs, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Rebecca M. Combs, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 1st day of February, A.D. 2013.




Notary Signature